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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,682	12/01/2003	Dennis A. Fagan	201853/12	2363

7590 04/11/2005

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EXAMINER
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LEE, JONG SUK

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 04/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/724,682	Applicant(s) FAGAN ET AL.	
	Examiner Jong-Suk (James) Lee	Art Unit 3673	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 January 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7 is/are allowed.
- 6) ☒ Claim(s) 8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>01/10/2005</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Receipt is acknowledged of a request for reconsideration filed January 10, 2005.

#### *Specification*

2. The disclosure is objected to because of the following informalities:

Page 1, line4: -- , abandoned -- should be inserted after "filed October 20, 2000".

Appropriate correction is required.

#### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103<sup>o</sup> and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Curtis et al.(US 6,152,656).

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Curtis et al.'656 discloses a fluid delivery system applicable in the environmental treatment of solid, semisolid and liquid waste for providing water spraying comprising of: an excavator (11) including a movable arm and a fluid jet (52) coupled to the movable arm; an industrial equipment comprising of a pump/motor (106) having an inlet and an outlet; a first conduit (54) in communication between a fluid source/tank (56) and the pump inlet; and a second conduit in fluid communication between the fluid jet (52) and the pump outlet as depicted in Fig. 7 (see col.5, lines 31-53; col.6, lines 39-49).

Although Curtis et al.'656 fails to specifically disclose the fluid delivery rate, 100-500 gallons/minute, an artisan within the ordinary skill in the art would have modified the capacity of the spray system attached to the excavator or bulldozer by changing the size of the conventional nozzle and adjust the pump capacity insofar as the spray system of Curtis et al.'656 provides the structural details, such as the jet nozzle, first and second conduits, pump, fluid source/water tank being structurally associated together.

### ***Response to Arguments***

5. Applicant's arguments with respect to the combination of Hansen and Curtis et al.'656 are persuasive and the art rejection over claims 1-7 are withdrawn.

Applicant's argument with respect to claim 8, a fluid delivery system, that the device of Curtis et al.'656 is intended primarily to deliver dry reagent to sludge, with mixing thereof and fails to teach the use of an excavator is not persuasive because Applicant recited only structural elements without reciting the function or interrelationships between the structural elements for achieving the desired results even if Applicant uses a closed end clause, such as "consisting of"

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and Curtis et al.'656 shows all of the claimed structure elements regardless of the injection hopper discharging the material. With respect to the excavator, applicant merely claims the excavator having a moveable arm and fluid jet coupled to the movable arm which are taught by Curtis et al.'656.

***Allowable Subject Matter***

6. Claims 1-7 would be allowable over the prior art of record.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

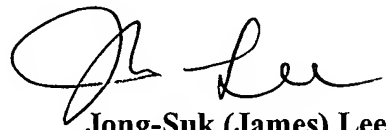
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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jong-Suk (James) Lee whose telephone number is (571) 272-7044. The examiner can normally be reached on 6:30 am to 3:00 pm, Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Heather C. Shackelford, can be reached on (571) 272-7049. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

J. Lee /jjl  
April 4, 2005



**Jong-Suk (James) Lee**  
**Primary Examiner**  
**Art Unit 3673**